



THE FORT ST. GEORGE GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

No. 7] MADRAS, THURSDAY, SEPTEMBER 25, 1937. [Part IV, 1st, 2 p.

Part IV—Proceedings of the Madras Legislature

CONTENTS

Madras Legislative Council Bill, 1937
---------------------------------------	----	----	----	----	----	----	----	----	----

Bill to be introduced in the Legislative Council of the Province of Madras.

Under the provision to rule 73 of the Madras ^{General Assembly} Rules, the following Bill, together with the Statement of Objects and Reasons, is published for general information:—

A Bill to provide for the temporary relief of indebted agriculturists in the Province of Madras.

WHEREAS it is expedient to provide for the temporary relief of indebted agriculturists in the Province of Madras, It is hereby enacted as follows:—

1. (1) This Act may be called the Madras Agricultural Mortgage Act, 1937

Short title, extent, and operation.

(2) It extends to the whole of the Province of Madras.

(3) It shall remain in force for a period of one year:

Provided that the Provincial Government may, by notification in the Official Gazette, declare—

(a) that it shall remain in force for a further period of one year; or

(b) that it shall cease to be in force at any time during the first or the second year.

2. In this Act, "agriculturist" means any person or Hindu joint family—

(a) who or which has a saleable right in agricultural land situated in the Province of Madras;

(b) not less than three-fourths of whose annual income in the year ending 30th June 1937 was derived from such land; and

(c) whose aggregate liabilities under the following heads in and for each year did not exceed four hundred rupees:—

(i) land revenue including irrigation cess;

(ii) rent in respect of any agricultural land; and

(iii) tax or cess payable to any local authority in respect of any property.

Explanation I.—In the case of any lands held wholly or partially free from assessment, the annual rent value of the land, as determined under clause

(a) of section 79 of the Madras Local Boards Act, 1920, shall be deemed to be the liability in respect thereof under the head referred to in sub-clause (i) of clause (c). Madras Act XIV of 1920.

Explanation II.—"rent" in sub-clause (ii) of clause (c) includes—

(i) rent as defined in the Madras Estates Land Act, 1908, and Madras Act I of 1908.

(ii) rent or nichavaram as defined in the Malabar Tenancy Act, 1929. Madras Act XIV of 1929.

3. (1) While this Act remains in force—

- (a) no suit or execution proceedings shall be instituted against an agriculturist in respect of a debt (not being a debt referred to in sub-section (2)), whether secured by a mortgage or not;
- (b) no proceedings shall be taken against an agriculturist under any insolvency law in respect of any such debt; and
- (c) no property mortgaged or pledged by an agriculturist shall be sold by the mortgagee or pledgee to realize any such debt.

(2) All suits, execution proceedings and proceedings in insolvency in respect of any such debt pending against an agriculturist at the commencement of this Act shall, while it remains in force, stand stayed:

Provided that nothing herein shall be deemed to deprive the debtor of any remedy or relief available to him in any such suit or proceeding.

(3) Nothing in sub-sections (1) and (2) shall apply to the following debts, namely:—

- (a) any revenue or cess payable to the Provincial Government and any other sum due to them which is recoverable by law as an arrears of land revenue;
- (b) income-tax;
- (c) any tax or cess due to any local authority;
- (d) any loan granted by the Provincial Government;
- (e) loans granted by any co-operative society including a land mortgage bank, registered or deemed to be registered under the Madras Co-operative Societies Act, 1932, or by any joint-stock bank registered under the Indian Companies Act, 1913, or formed in pursuance of an Act of Parliament or any Indian law or of Royal Charter or Letters Patent; and
- (f) any rent due in respect of agricultural land to a landholder or lessor and which became payable after 30th June 1935.

(4) No application shall be presented under the Madras Debt Conciliation Act, 1930, by or against an agriculturist while this Act remains in force, and any

Debt and without any and such every proceedings against agriculturist shall not be taken.

Madras Act
VI of 1931.

VII of 1935.

Madras Act
XII of 1930.

application by or against an agriculturist presented under that Act and pending at the commencement of this Act shall stand stayed while this Act remains in force.

Institution
and execution
of proceedings
under Act
ceased to be
in force.

4. (1) The period of limitation for any suit or proceeding, the institution of which is barred by sub-section (1) of section 3, shall be extended by the period for which this Act remains in force.

(2) All suits and proceedings stayed under sub-section (2) of section 3, and all applications stayed under sub-section (4) of that section shall, after this Act has ceased to be in force, proceed, subject to the provisions of any law which may then be in operation, from the stage which had been reached when this Act came into force.

Rights under
prior
mortgages
not affected.

5. Where any suit is instituted or execution proceeding taken in respect of any of the debts referred to in sub-section (3) of section 3, the prior rights, if any, of any mortgagee or holder of a charge or lien, in respect of any debt not referred to in that sub-section and the enforcement of which is postponed by this Act, shall not be affected.

Withholding
of surplus
proceeds
in certain
cases.

6. Where any immovable property of an agriculturist is brought to sale for enforcing payment of any of the debts referred to in sub-section (3) of section 3, the Court or other authority concerned shall withhold payment to the agriculturist of the surplus proceeds resulting from such sale unless such Court or authority is satisfied that such payment will not prejudice the rights of any creditor of the agriculturist.

Continuance
of insolvency
proceedings
in certain
cases.

7. Where proceedings have been or are instituted against an agriculturist under any insolvency law by a creditor to whom a debt referred to in sub-section (3) of section 3 is proved to be due, such proceedings shall continue as if this Act had not been passed.

Agriculturist
not to
transfer
immovable
property to
the prejudice
of creditors.

8. No agriculturist shall be entitled to transfer any immovable property so as to affect the rights of any creditor who, by virtue of this Act, is unable to take or continue proceedings against the agriculturist, and such property may be proceeded against by such creditor as if it had not been transferred.

9. If it is proved to the satisfaction of a Court ^{Special relief to be granted in certain cases of hardship.} that the major portion of the assets of any person or Hindu joint family consists of sums due from agriculturists which such person or family is unable, by virtue of this Act to recover and is therefore unable, to meet the claims of his or its creditor or creditors, the Court may grant to such person or family such relief as it thinks fit, not exceeding the relief given by this Act to an agriculturist, and the provisions of this Act shall thereupon apply, so far as may be, to such person or family as if he or it were an agriculturist.

10. The Provincial Government may, by notification in the Official Gazette, set up such authority or authorities as they deem necessary from time to time ^{Establishment of authorities to deal with matters arising under the Act.} to dispose of matters arising out of the provisions of this Act and to make and to issue declarations on the application of agriculturists or their creditors, but the setting up of any such authority shall not be deemed in any manner to take away or affect the jurisdiction of the ordinary Courts of law.

11. (1) The Provincial Government shall have ^{Power to make rules.} power to make rules—

- (a) for the jurisdiction of, and conduct of proceedings before, any authority or authorities set up under section 10 including the levy of fees by such authority or authorities;
- (b) for the conduct of proceedings arising out of the provisions of this Act, before the ordinary Courts of law, and the levy of fees in connection therewith; and
- (c) for removing any difficulty in giving effect to the provisions of this Act and generally for carrying into effect the said provisions.

(2) All rules made under sub-section (1) shall be published in the Official Gazette and shall have effect as if enacted in this Act.

STATEMENT OF OBJECTS AND REASONS.

The object of this Bill is to give temporary relief to indebted agriculturists in the Province pending the formulation of comprehensive measures for dealing with the problem.

